

PATENT COOPERATION TREATY

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PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY
(PCT Rule 43bis.1)

Date of mailing

(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference

see form PCT/ISA/220

FOR FURTHER ACTION

See paragraph 2 below

International application No.

PCT/GB2004/004764

International filing date (day/month/year)

11.11.2004

Priority date (day/month/year)

14.11.2003

International Patent Classification (IPC) or both national classification and IPC.

F16H15/50, F16H15/52

Applicant

ORBITAL TRACTION LTD

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☒ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

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BEST AVAILABLE COPY **10/579183****WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**International application No.
PCT/GB2004/004764**IP200600010 10 MAY 2006****Box No. I Basis of the opinion**

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
 - ☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
 - ☐ a sequence listing
 - ☐ table(s) related to the sequence listing
 - b. format of material:
 - ☐ in written format
 - ☐ in computer readable form
 - c. time of filing/furnishing:
 - ☐ contained in the international application as filed.
 - ☐ filed together with the international application in computer readable form.
 - ☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

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**Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or
industrial applicability; citations and explanations supporting such statement**

1. Statement

Novelty (N)	Yes: Claims	2-4
	No: Claims	1,5-10
Inventive step (IS)	Yes: Claims	2-4
	No: Claims	1,5-10
Industrial applicability (IA)	Yes: Claims	1-10
	No: Claims	

2. Citations and explanations**see separate sheet**

Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

see separate sheet

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WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING
AUTHORITY (SEPARATE SHEET)

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PCT/GB2004/004764

AP20 Rec'd PCT/PTO 15 MAY 2006

To Chapter V.2.

Documents cited in the search report :

D1:WO 03/023256 A1 (ORBITAL TRACTION LTD; MILNER, PETER, JAMES) 20 March 2003

D2:WO 99/35417 A1 (MILNER, PETER, JAMES) 15 July 1999

D3:US-A-3 793 910 (NASVYTIS A,US) 26 February 1974

V.2.1 Independent Claim 1

Claim 1 is represented in such a general way that anyone of the cited documents D1-D3 can be used to show that all features of claim 1, as understood, are known, see for example in document D1, that clearly shows in figures 1,2 a

continuously variable transmission device of the type having planetary members (21) in rolling contact with radially inner and outer races (12,13,23,24) each comprising axially spaced relatively axially movable parts (22,12,13), and control means (27) for determining the axial separation of the parts of one of the two races, in which the planetary members are connected for drive transmission to an input or output member (33) of the transmission by connection means (32,31) which allows the radial position of the planets to vary in response variation in the axial separation of the parts of the said one of the two races, and in which the generatrix of the curved surface of at least one of the races and/or the planetary members (21) non-circular (see claim 8).

Therefore, the present application does not satisfy the criterion set forth in Article 33 (2) PCT because the subject-matter of independent claim 1 is not new in respect of prior art as defined in the regulations (Rule 64 (1)-(3) PCT).

V.2.2. Claims 2-10 depending on Claim 1

Claims 2-10 depending on claim 1 and having as subject-matter special embodiments of the invention according to claim 1 do not fulfil the provisions of the PCT (Art. 33 and

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Rule 6 PCT) since their validity is dependent on that of claim 1, which has been denied.

Further, the features of the following claims do not add new features to the subject-matter of claim 1, the features being -at least per se - known from the documents listed below:

- **claim 5:** Document D1; see figures 2,6.
- **claim 6:** Document D1; see claim 6.
- **claim 8:** Document D1; see claim 12.
- **claim 9:** Document D2; see claims 31-33.
- **claim 10:** Document D1; see claim 19.

The dependent **claim 7** is unclear, since it discloses features, as "at least a radial component ", which are not supported by the description.

To Chapter VII

The closest prior art document D1 is not identified in the description and the relevant background art disclosed therein is not briefly discussed.

Reference signs in parentheses are not inserted in the claims to increase their intelligibility. This applies to both the preamble and characterising portion.

The independent claim 1 is not cast properly in the two part form, with those features which in combination are part of the closest prior art being placed in the preamble.